

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

## THOMAS SPILSBURY,

No. C09-05955 JW (HRL)

Plaintiff,

**ORDER DENYING WITHOUT  
PREJUDICE THE PARTIES'  
RESPECTIVE DISCOVERY  
MOTIONS**

TARGET CORP., et al.,

**[Re: Docket Nos. 95, 99, 103, 112, 115]**

## Defendants.

Over the past two months, this case has been haphazardly pursued. Essential facts have changed, and motions have been made and withdrawn.

Now, the parties have deluged this Court with discovery motions. On February 8, 2011, Defendants' filed a motion to compel the release of Plaintiff's Facebook information. Docket No. 95. And from February 9 to February 15, Plaintiff filed three motions to compel and a motion to quash. Docket Nos. 99, 103, 112, 115.

However, per Judge Ware’s scheduling order — which he recently refused to modify — discovery closed on January 21, 2011 (Docket No. 36), and under this District’s civil local rules, discovery motions may not be filed more than seven days after the discovery cutoff. See Civ. L.R. 37-3. Knowing this, both parties filed administrative motions for leave to file these discovery motions (although they filed the underlying motions anyway).

1 It is Judge Ware, and not this Court, who decides whether to extend the discovery cutoff and  
2 whether to allow parties to conduct discovery after it. Thus, this Court refers the parties'  
3 administrative motions to Judge Ware. See Docket Nos. 101, 102. Further, since the parties'  
4 discovery motions were filed more than seven days after the current January 21 discovery cutoff,  
5 this Court DENIES them without prejudice. See Docket Nos. 95, 99, 103, 112, 115. Should Judge  
6 Ware extend the discovery cutoff or allow the parties to move to compel, the parties may refile their  
7 motions and notice them for hearing before this Court.

8  
9 **IT IS SO ORDERED.**

10 Dated: February 28, 2011

11   
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

1 **C09-05955 JW (HRL) Notice will be electronically mailed to:**

2 Juliet MacMillin Lompa jmlompa@stonelawoffice.com, csepulveda@stonelawoffice.com  
3 Timothy Dennis McMahon tmcmahon@cmalaw.net, jefflochner@gmail.com,  
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4 **Please see General Order 45 Section IX C.2 and D; Notice has NOT been electronically mailed  
to:**

5 Colette Stone  
6 Stone & Sidran  
7 A Professional Corporation  
2125 Ygnacio Valley Road  
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8 Walnut Creek, CA 94598

9 **Counsel are responsible for distributing copies of this document to co-counsel who have not  
registered for e-filing under the court's CM/ECF program.**